

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TONY HARRIS,

Plaintiff,

-against-

CITY OF NEW YORK, WARDEN C-95, C.O. MILLER,  
C.O BARNES, CO. GAINES, ADMINISTRATION  
SEGREGATION MEDICAYION ESCORT (JOHN DOE),  
C.O MEADOWS, C.O BONILLA, C.O GREEN,

Defendants.  
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**ANSWER TO THE  
AMENDED COMPLAINT**

07 CV 7894 (RJS)

Jury Trial Demanded

Defendants City of New York and Warden Michael Hourihane, by their attorney,  
Michael A. Cardozo, Corporation Counsel of the City of New York, for their answer to the  
amended complaint, respectfully allege, upon information and belief, as follows:<sup>1</sup>

1. Deny the allegations set forth in paragraph “I” of the amended complaint  
and all of its subparts, including the attached page labeled “Additional Sheet of Paper for  
Defendants”, except admit that plaintiff purports to name the parties as stated therein.

2. Deny knowledge or information sufficient to form a belief as to the truth  
of the allegations set forth in paragraph “II” of the amended complaint and all of its subparts,  
including the attached page labeled “Statement of Claim D. Cont.”.

3. Deny knowledge or information sufficient to form a belief as to the truth  
of the allegations set forth in paragraph “III” of the amended complaint.

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<sup>1</sup> In addition to defendants City and Hourihane, the amended complaint purports to name  
“C.O. Miller”, “C.O. Barnes”, “C.O. Gaines”, “Administration Segregation Medcayion [sic]  
Escort (John Doe)”, “C.O. Meadows”, “C.O. Bonilla”, and “C.O. Green” as defendants.  
However, on information and belief these individuals have not been served with a copy of the  
summons and amended complaint and are therefore not defendants in this action at this time.

4. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “IV” of the complaint, except admit that the Anna M. Kross Center has a grievance procedure.

5. Deny the allegations set forth in paragraph “V” of the complaint, except admit that plaintiff purports to seek relief as stated therein.

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “VI” of the complaint and all of its subparts.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE:**

7. The amended complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

8. Defendants have not violated any rights, privileges or immunities secured to plaintiff by the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor have defendants violated any act of Congress providing for the protection of civil rights.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE:**

9. At all times relevant to the acts alleged in the complaint, defendants acted reasonably in the proper and lawful exercise of their discretion.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:**

10. Any injury alleged to have been sustained resulted from plaintiff’s own culpable or negligent conduct and/or the intervening conduct of third parties and was not the proximate result of any act of the defendants.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:**

11. Plaintiff's claims may be barred, in whole or in part, by his failure to exhaust his administrative remedies as required by the Prison Litigation Reform Act, 42 U.S.C. § 1997e.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:**

12. Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations period.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:**

13. Plaintiff's claims may be barred, in whole or in part, because plaintiff failed to comply with all conditions precedent to suit.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:**

14. Plaintiff's claims may be barred, in whole or in part, by the doctrines of res judicata and/or collateral estoppel.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE:**

15. Warden Hourihane had no personal involvement in the incidents alleged by plaintiff.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE:**

16. To the extent plaintiff challenges the outcome of a disciplinary hearing, plaintiff was afforded due process.

**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE:**

17. The actions of any correction officers involved in the alleged incidents were reasonable.

**WHEREFORE**, defendants the City of New York and Warden Michael Hourihane request judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
August 5, 2008

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
Attorney for Defendants  
100 Church Street  
New York, New York 10007  
(212) 788-1575

By: \_\_\_\_\_/s/  
Bradford C. Patrick  
Assistant Corporation Counsel  
Special Federal Litigation Division

To: BY MAIL  
Anthony Harris, #241071799  
Plaintiff Pro Se  
Anna M. Kross Center  
18-18 Hazen St.  
E. Elmhurst, NY 11370

**DECLARATION OF SERVICE BY FIRST CLASS MAIL**

I, Bradford C. Patrick declare, pursuant to 28 U.S.C. § 1746, under the penalty of perjury that on **August 5, 2008** I served the annexed **Answer** upon the following individual by depositing a copy of the same, enclosed in a first class postpaid properly addressed wrapper, in a post office/official depository under the exclusive care and custody of the United States Postal Service, within the State of New York, directed to the said plaintiff pro se at the address set forth herein, being the address designated by said plaintiff for that purpose, to wit:

Anthony Harris, #241071799  
Plaintiff Pro Se  
Anna M. Kross Center  
18-18 Hazen St.  
E. Elmhurst, NY 11370

Dated: New York, NY  
August 5, 2008

\_\_\_\_\_/s/  
Bradford C. Patrick  
Assistant Corporation Counsel  
Special Federal Litigation

Index No. 08 CV 7894 (RJS)

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Plaintiff,

-against-

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MEDICAYION ESCORT (JOHN DOE), C.O  
MEADOWS, C.O BONILLA, C.O GREEN,

Defendants.

**ANSWER TO THE AMENDED COMPLAINT**

***MICHAEL A. CARDOZO***

*Corporation Counsel of the City of New York*

*Attorney for Defendants*

*100 Church Street*

*New York, N.Y. 10007*

*Of Counsel: Bradford C. Patrick*

*Tel: (212) 788-1575*

*NYCLIS No.2008-015916*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 200.....*

*..... Esq.*

*Attorney for.....*